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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

U02-0126.32

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on March 7, 2006

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Application Number

10/604,070

Filed

June 25, 2003

First Named Inventor

Peter J. Kennedy

Art Unit

2642

Examiner

William J. Deane, Jr.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. 41,329
Registration number

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34

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3-7-2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant submits that the current and immediately preceding office actions issued by the Examiner in the present application contain clear errors in the Examiner's rejections as well as omissions of one or more essential elements needed for a prima facie rejection.

The Examiner, in a very cursory manner, has rejected the entire application under 35 USC 102(e) based on U.S. Pat. No. 6,456,234 B1 to Johnson (hereinafter "Johnson"). The Examiner has failed to meet the standards imposed by 35 USC 102(e). The rejection based on Johnson is omnibus in nature providing no specific reference or analysis to the individual elements and or steps recited by the claims of the present invention.

For instance, there are three steps recited in independent claim 1:

- receiving a public service text message that was broadcast to a large number of mobile subscribers;
- automatically generating a reply message to the public service text message containing header and data portions; and
- automatically sending the reply message back to the original sender.

No where in the Examiner's rejection does the Examiner individually address each element or step and apply a specific portion of the cited reference. The Examiner mentions the receiving of a public service text message and obliquely alludes to "header and data portions" out of context with respect to the present invention. The most egregious aspect of the rejection is its failure to even acknowledge or mention the "*automatically sending the reply message back to the original sender*" step of claim 1 let alone apply the cited reference against this step. It is applicant's position that there is nothing in the Johnson reference that discloses this step either directly or indirectly. The Examiner has provided nothing for the applicant to respond to at all.

With respect to the few words used by the Examiner in the 35 USC 102(e) rejection, it is applicant's belief that the Examiner has completely mischaracterized and misinterpreted the Johnson reference as it is applied to the present invention.

The present invention enhances the missing person "Amber Alert" notification system by incorporating mobile phone messaging as an additional means for disseminating Amber Alert notifications to mobile phone users in the general public. The present invention further allows

mobile phone users that receive an Amber Alert notification message to reply to the Amber Alert notification to help locate a missing or abducted individual.

The elements/steps claimed in the present invention call for a mobile phone to receive a public service message (i.e., Amber Alert) that was disseminated to a large number of mobile phone subscribers from a centralized source like one or more carrier networks working in conjunction with a law enforcement agency. Should a mobile phone user have information of value, the mobile phone can then automatically compose a reply message to the public service message that contains helpful information regarding the missing or abducted individual. The reply message, at a minimum, includes a header portion containing contemporaneous information like time, date, and perhaps location of the sending mobile phone. The reply message may also contain additional user supplied information such as a brief description of what was witnessed or even a picture if the mobile phone is camera equipped. The message is then automatically sent back to the original sender of the Amber Alert notification so that it can be processed in hopes of locating the missing or abducted individual.

The essence of Johnson involves a system that recognizes an event and “pushes” data to the RPDS from the SPDS based on that event. Recognition of the event is based on situational location dependent information. The data being pushed can vary. However, the one thing the pushed data has in common is that it does not contemplate a reply back to the sender which is the essence of the present invention. Johnson sets out multiple scenarios in column 3 that describe examples of data pushed to an RPDS. Johnson even considers the Amber Alert public service message described in the present application. What is most telling, however, is that Johnson never once contemplates a reply to a pushed message. That is why applicant has characterized the Johnson reference as a one-way communication system.

This is in stark contrast to the intent and claims of the present invention which provide a means of feedback to the original sender of an Amber Alert message so as to quickly and efficiently provide clues or tips regarding a missing or abducted individual.

The Examiner, in referring to independent claims 1 and 8, states that Johnson discloses in the receiving data processing system (RDPS) and the *Summary of the Invention*, the receiving of a public text message (Amber Alert; col. 3, lines 51-62, with respect to header and data portions, see Figs. 7A-9D).

As applied to independent claims 1 and 8, applicant submits that Johnson does not in fact disclose each and every step or element of the presently claimed invention. Claim 1 of the presently claimed invention recites:

1. *A text messaging based alert notification and feedback method comprising:*

receiving a public service text message that was broadcast to a large number of mobile subscribers;

automatically generating a reply message to said public service text message wherein said reply message contains a header portion and a data portion; and

automatically sending said reply message to the sender of the public service text message.

It is clear that Johnson does not explicitly or implicitly disclose *automatically generating a reply message* or *automatically sending the reply message* since Johnson does not compose or send any sort of reply message to the received 'pushed' message. The present invention can automatically generate and send a reply message that includes header and data portions. The header and data portions in Figures 7A-9D of Johnson simply do not relate to a reply message from the mobile phone (RDPS), they relate to a data record with a content database. *See, Johnson for example at col. 13 lines 16-64.*

Claims 2-7 recite features which further patentably distinguish the present invention over Johnson. Additionally, these claims depend, either directly or indirectly, from independent claim 1 and by virtue of dependency, contain all the features of independent claim 1.

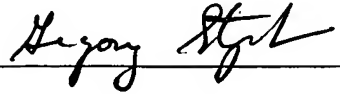
Similarly, claims 9-14 recite features which further patentably distinguish the present invention over Johnson. Additionally, these claims depend, either directly or indirectly, from independent claim 8 and by virtue of dependency, contain all the features of independent claim 8.

Based on the foregoing, applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. §102(e) rejection of claims 1 - 14.

The Examiner is authorized to charge any fees required and not paid herein, or credit any overpayment to Deposit Account 13-4365.

Respectfully submitted,

Dated: 7 MAR. 2006

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